



**U.S. DEPARTMENT OF TRANSPORTATION**

FEDERAL HIGHWAY ADMINISTRATION

CALIFORNIA DIVISION

650 Capitol Mall, Suite 4-100

Sacramento, CA. 95814

April 30, 2004

IN REPLY REFER TO

HDA-CA

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Mr. Tony Harris, Acting Director  
California Department of Transportation  
1120 N Street  
Sacramento, CA 95814

Attention: Jody Lonergan, Caltrans, District 3

Dear Mr. Harris:

**SUBJECT: Tahoe Metropolitan Planning Organization (TMPO) Regional Transportation Plan (RTP) Expiration and Transportation Conformity Lapse**

On March 1, 2004, the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) notified you of an imminent transportation conformity lapse for the Lake Tahoe non-attainment area. As a follow up to our notice, we hereby inform you that as of May 1, 2004, the Lake Tahoe non-attainment area will be in a transportation conformity lapse.

The Tahoe Metropolitan Planning Organization's (TMPO) Regional Transportation Plan (RTP) received a transportation conformity determination from FHWA and FTA and became effective on May 1, 2001. In non-attainment areas, the RTP must be updated every 3 years. The updated RTP must also receive a conformity determination from FHWA and FTA within the same 3-year time frame in order to meet both the federal planning and transportation conformity regulations. While TMPO is currently working on updating its RTP, it failed to meet the 3-year update deadline of May 1, 2004. Therefore, as of this date, TMPO has no valid RTP and is in a transportation conformity lapse.

Without a valid RTP and FTIP, no federal actions may be taken by FHWA, FTA, or Caltrans for the federal-aid project categories where it has received a delegation of authority from FHWA, on federally funded projects in the TMPO region. Under these circumstances, only the following federally funded transportation activities within the TMPO region can proceed:

- 1) Transportation planning and research activities;
- 2) operating assistance;
- 3) safety projects funded under 23 U.S.C. 402;
- 4) emergency relief projects;
- 5) FHWA-funded projects phases, i.e., design, right-of-way acquisition, or construction, that received funding commitments, an equivalent approval (the execution of a project agreement, which includes federal approval of the plans, specifications and estimates, indicates funding commitment), or an authorization prior to May 1, 2004;
- 6) FTA-funded projects for which a full funding grant agreement (FFGA) was executed prior to May 1, 2004 (If the FFGA has not been executed, the project sponsor may only complete the current stage of project development, e.g., final design or land acquisition.); and,
- 7) transit projects not handled with FFGAs for which FTA has approved a grant and the project sponsor has awarded a contract for construction or vehicle acquisition prior to May 1, 2004 (If a local contract has not been approved, the project sponsor may only complete the current stage of project development with federal funds.).

Per our January 2, 2002, guidance, *Revised Guidance for Implementing the March 1999 Circuit Court Decision Affecting Transportation Conformity and the National Memorandum of Understanding Between The U.S. Department of Transportation and the U.S. Environmental Protection Agency* (available at: [www.fhwa.dot.gov/environment/conformity/rg0399\\_m.htm](http://www.fhwa.dot.gov/environment/conformity/rg0399_m.htm)), TMPO may develop an interim RTP and interim FTIP to advance the following additional categories of projects during a conformity lapse:

- 1) Exempt projects, as defined in the transportation conformity rule (40 CFR 93.126 and 93.127); and,
- 2) transportation control measures in approved state implementation plans.

Other than those project categories listed above, FHWA and FTA cannot make any new project approvals or approve a categorical exclusion, finding of no significant impact, final environmental impact statement, or issue a record of decision for non-exempt projects. Similar funding and project development restrictions also apply to regionally significant, non-federal transportation projects within the Lake Tahoe non-attainment area where the project sponsors are recipients of federal transportation funds.

The above restriction will remain in effect until there is a conforming RTP and FTIP in place for the TMPO region. We will notify you immediately of any major developments or of the final resolution to this situation.

FHWA and FTA will continue to work closely with all the affected transportation and air quality agencies. If you have any questions, please contact Mayela Sosa, FHWA, at (916) 498-5022 or Ted Matley, FTA, at (415) 744-2590.

Sincerely,

/s/ K. Sue Kiser

For  
Gene K. Fong  
Division Administrator

c: (E-mail)  
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Gary Winter, Caltrans HQ  
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